

मा.उच्च न्यायालय, खंडपीठ नागपूर येथे दाखल करण्यात आलेल्या रिट याचिका क्रमांक ६८६१/२०१६ मधील आदेशानुषंगाने सर्व महसूली अधिकारी व प्राधिकारी यांना दिशानिर्देश देण्याबाबत..

महाराष्ट्र शासन

महसूल व वन विभाग,

शासन परिपत्रक क्रमांक: अपिल-२०२३/प्र.क्र.७२/ज-१अ

हुतात्मा राजगुरु चौक, मादाम कामा मार्ग,

मंत्रालय, मुंबई ४०० ०३२

दिनांक : २०/१०/२०२३

वाचा :- मा.उच्च न्यायालय, खंडपीठ नागपूर येथे दाखल करण्यात आलेल्या रिट याचिका क्रमांक ६८६१/२०१६ मधील दिनांक ०१/०३/२०२३ चे आदेश

प्रस्तावना :

श्री.गुलाब हजारे व इतर विरुद्ध महाराष्ट्र शासन यांनी मा.उच्च न्यायालय, खंडपीठ नागपूर येथे रिट याचिका क्रमांक ६८६१ ऑफ २०१६ दाखल केली आहे. सदर रिट याचिकेत मा.उच्च न्यायालय, खंडपीठ नागपूर यांनी दिनांक ०१/०३/२०२३ रोजी आदेश पारित केले आहेत. सदर आदेशात मा.उच्च न्यायालयाने अर्धन्यायिक कामकाज करताना महसूल अधिकाऱ्यांकडून अवलंबिण्यात येणाऱ्या कार्यपद्धतीबाबत तीव्र नाराजी व्यक्त केली आहे. मा.उच्च न्यायालयाने सदर आदेशात काही निरीक्षणे नोंदवून त्या अनुषंगाने महसूली अधिकाऱ्यांना अर्धन्यायिक प्रकरणात अनुसरावयाच्या कार्यपद्धतीविषयक काही निर्देश दिले आहेत. सदर आदेशाच्या अनुषंगाने, सर्व महसूली अधिकारी व प्राधिकारी यांना दिशानिर्देश देण्याची बाब शासनाच्या विचाराधीन होती.

शासन परिपत्रक :

मा.उच्च न्यायालय, खंडपीठ नागपूर येथे दाखल करण्यात आलेल्या रिट याचिका क्रमांक ६८६१ ऑफ २०१६ मधील दिनांक ०१/०३/२०२३ च्या आदेशातील मुद्दा क्रमांक २५ मध्ये पुढीलप्रमाणे मार्गदर्शक सूचना देण्यात आल्या आहेत :-

१.जर अर्जातील विनंती / मागण्या या एकापेक्षा अधिक कायदयांखालील असल्यास तसे अर्जदाराच्या निदर्शनास आणून द्यावे व संबंधित विनंती / मागणीसाठी त्या त्या कायदयातील तरतूदीप्रमाणे स्वतंत्र अर्ज दाखल करण्यासाठी पुरेसा अवधी देऊन त्रुटी दूर करण्यासाठी संधी द्यावी.

२.जर एखादा अर्ज हा एखादया कायदयातील तरतूदीनुसार विहित नमुन्यात नसेल, किंवा त्या मध्ये कायदयाने अपेक्षित तपशील समाविष्ट नसेल, किंवा त्यासोबत आवश्यक महसूली अभिलेख किंवा इतर दस्तऐवज जोडले नसतील तर त्याबाबत अर्जदाराकडून खात्री करावी व अर्जदारास पुरेशी संधी देऊन त्रुटी दूर करून घ्याव्यात.

३.जर एखादया अर्जासोबत प्रतिज्ञापत्र किंवा सत्यापन आवश्यक असेल, आणि जर अर्जासोबत ते दाखल केलेले नसेल तर, त्याबाबत अर्जदाराला माहिती देऊन व पुरेशी संधी देऊन त्याबाबतची पूर्तता करून घेण्यात यावी.

४.अर्जावरील कार्यवाहीसाठी काही आवश्यक दस्तऐवज हे सार्वजनिक असल्याने ऑनलाईन उपलब्ध असतील तर, अर्ध न्यायिक प्राधिकाऱ्यांनी ते स्वतः ऑनलाईन प्राप्त करून घ्यावेत किंवा संबंधित यंत्रणेकडून मागवून घ्यावेत.

५.परंतु, कोणत्याही परिस्थितीत, कायदयातील तरतूदीप्रमाणे कार्यपद्धतीविषयक पूर्तता करण्यासाठी पुरेशी संधी न देता, केवळ तांत्रिक कारणास्तव अर्ज निकाली काढून न्याय नाकारला जाऊ नये.

६.त्रुटीची पूर्तता करण्यासाठी अशी संधी देण्यात आल्याचे अर्ध न्यायिक अधिकाऱ्यांनी लेखी स्वरूपात नोंदवावे आणि सदर बाब प्रकरणाच्या नोंदी आणि कार्यवाहीतून दिसली पाहिजे.

७.अशा प्रकरणात पुरेशी संधी देऊनही कार्यपद्धतीविषयक त्रुटी दूर केल्या नाहीत या कारणास्तव किंवा जाणीवपूर्वक किंवा खोडसाळपणे अशी पूर्तता केली जात नसल्याचे स्पष्ट झाल्यानंतरच अशी प्रकरणे निकाली काढणे न्यायसंमत राहील.

०२. यानुषंगाने, सदर रिट याचिका क्रमांक ६८६१ ऑफ २०१६ मधील दिनांक ०१/०३/२०२३ च्या आदेशाची प्रत सोबत जोडली आहे. त्यानुसार, सर्व विभागीय आयुक्त, जिल्हाधिकारी व क्षेत्रीय महसूली अधिकारी व प्राधिकारी यांनी या मार्गदर्शक सूचनांप्रमाणे तात्काळ कार्यवाही करावी व त्याबाबतचा अनुपालन अहवाल शासनास सादर करावा.

०३. सदर शासन परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संकेतांक २०२३१०२०१७०१३८६०१९ असा आहे. हे परिपत्रक डिजिटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(शिल्पा पटवर्धन)

कार्यासन अधिकारी, महाराष्ट्र शासन

प्रत,

१. मा.राज्यपाल, महाराष्ट्र राज्य यांचे सचिव, राजभवन, मलबार हिल, मुंबई,
२. मा.मुख्यमंत्री यांचे अपर मुख्य सचिव, मुख्यमंत्री सचिवालय, मंत्रालय, मुंबई,
३. मा. मंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई-३२,
४. मा.विरोधी पक्षनेता (विधान सभा/ विधान परिषद) यांचे खाजगी सचिव, विधानभवन, मुंबई-४०० ०३२,
५. मा.मुख्य सचिव, महाराष्ट्र शासन, मंत्रालय, मुंबई-३२,
६. प्रधान सचिव, विधानमंडळ सचिवालय, विधानभवन मुंबई, -३२,
७. महालेखापाल, लेखा व अनुज्ञेयता/लेखापरिक्षा, महाराष्ट्र राज्य (१) मुंबई,
८. महालेखापाल, लेखा व अनुज्ञेयता/लेखापरिक्षा, महाराष्ट्र राज्य (२) नागपूर,
९. अपर मुख्य सचिव (महसूल) यांचे स्वीय सहायक, मंत्रालय, मुंबई-३२,

१०. सर्व विभागीय आयुक्त,
११. जमाबंदी आयुक्त व संचालक, भूमी अभिलेख, महाराष्ट्र राज्य, पुणे,
१२. सर्व जिल्हाधिकारी /अपर जिल्हाधिकारी,
१३. माहिती व जनसंपर्क संचालनालय, मंत्रालय, मुंबई-३२,
१४. सर्व उप विभागीय अधिकारी (प्रांत अधिकारी) / सर्व जिल्हा अधिक्षक, भूमी अभिलेख,
१५. सर्व तहसिलदार/ सर्व तालुका निरीक्षक, भूमी अभिलेख,
१६. सर्व सह सचिव /उप सचिव, महसूल व वन विभाग-मुंबई, मंत्रालय ,३२,
१८. "ज" समूहातील सर्व कार्यासने, महसूल व वन विभाग-मुंबई, मंत्रालय ,३२,
१९. निवडनस्ती (कार्यासन ज-१ अ), महसूल व वन विभाग-मुंबई, मंत्रालय ,३२.



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.6861 OF 2016

1. Tejram S/o Gulab Hajare, aged
about 75 years,
2. Laxman S/o Gulab Hajare,
Aged about 65 years
2. Laxman S/o Gulab Hajare, (Dead)
through LR's.
- 2-a] Suman Wd/o Laxman Hajare
aged about 72 years, Occ. Household,
- 2-b] Waman S/o Laxman Hajare, aged
about 49 years, Occ. Agriculturist,
- 2-c] Nandkishor S/o Laxman Hajare, aged
about 46 years, Occ. Agriculturist,
- 2-d] Shrawan S/o Laxman Hajare, aged
about 39 years, Occ. Agriculturist,
Applicant nos.1 to 4 are R/o at. Post.
Punapur, Pardi, Tah. & Distt.
Nagpur.
- 2-e] Sunita W/o Krishna Hinge, aged
about 44 years, Occ. Household,
R/o Nimkheda, Post. Satak, Tah. Parsioni,
Dist. Nagpur.
- 2-f] Sangeeta W/o Vijay Karemore, aged
about 42 years, Occ. Household,
R/o Sirpur Bori, Post. Kachurwahi,
Tah. Parseoni, Distt. Nagpur.
3. Ramu S/o Gulab Hajare, Aged
about 58 years,
Nos.1 to 3 are residents of & Post Punapur,
Tahsil and District Nagpur.
4. Rukhmabai Harishchandra Chute,
aged major, R/o Bharatnagar,
Pardi, Bhandara road, Nagpur.

Amended as per Court's
order dated 24.02.2023

.... **PETITIONERS**

// VERSUS //

1. The learned Additional Commissioner, Nagpur Division, Nagpur.
2. The learned Additional Collector, Nagpur Division, Nagpur.
3. The learned Sub Divisional Officer, Nagpur Division, Nagpur.
4. The learned Tahsildar, Kampthi, Tahsil Kamthi, District Nagpur.
5. Smt. Ramabai Wd/o Mukund Paunikar, aged Major, Occ. Household,
6. Rukhmani d/o Mukund Paunikar, aged adult, Occ. Household,
6. Rukhmani D/o Mukund Paunikar, (Now married name: Rukhmini Padmakar Dekate), R/o Rani Durgawati Nagar, Near House of Sahare, Nagpur.
7. Durgabai d/o Mukund Paunikar, aged adult, Occ. Household,
7. Durgabai D/o Mukund Paunikar, aged adult, Occ. Household, Now married Durgabai Laxman Ninawe, R/o Piwali Marbat Chowk, Panchpaoli, Nagpur.
8. Suryakant S/o Mukund Paunikar, aged adult, Occ. Agriculturist,
9. Manik S/o Mukund Paunikar, aged adult, occ. Agriculturist,

Amended as per
Registrar order
dated 10.11.2017.

10. Vinod S/o Mukund Paunikar,
aged adult, occ. Agriculturist,

11. Madhukar S/o Sitaram Paunikar,
aged major.

12. Laxman S/o Sitaram Paunikar,
aged major,

13. Shankar S/o Sitaram Paunikar,
Aged Major,

Amended as per
Registrar order
dated 10.11.2017.

13. Shankar S/o Sitaram Paunikar,
aged major, R/o Vaishali Nagar,
Near House of Bokde Builders,
Near Primary School, Nagpur.

14. Nilkanth S/o Mahadeo Paunikar,
aged major,

15. Nagorao S/o Mahadeo Paunikar,
aged Major,

Amended as per
Registrar order
dated 10.11.2017.

15. Nagorao S/o Mahadeo Paunikar,
aged Major, R/o Ramna Maroti
Nagar, Near Ramna Maroti Mandir,
Near Computer Institute, Nagpur.

16. Narayan S/o Mahadeo Paunikar,
aged major,

17. Govinda S/o Mahadeo Paunikar,
aged major,

Amended as per
Registrar order
dated 10.11.2017.

17. Govinda S/o Mahadeo Paunikar,
aged Major, R/o Khapre Mohalla,
Timki, Nagpur.

18. Smt. Sundarabai Wd/o Khisaduji
Paunikar, aged major,

19. Gulab S/o Khisaduji Paunikar,
aged major,

20. Gajanan S/o Khisaduji Paunikar,
aged major,
Nos.5 to 20 all are residents
of Lalganj, Gujar, Near house of
Vitthalrao Mahajan, Ward
No.45, 12/18, Nagpur.

.... **RESPONDENTS**

Ms R.D. Raskar, Adv. a/w Shri S.R. Charpe, Adv. for the Petitioners.
Shri K.L. Dharmadhikar, A.G.P. for the respondent Nos.1 to 4/State.
Shri N.B. Bargat, Advocate for the respondent Nos.5 to 20.
Shri Madhur Deo, Advocate for the intervenor.

CORAM : ANIL S. KILOR, J.

DATED : 01st MARCH, 2023

ORAL JUDGMENT

1. Heard.

2. **RULE.** Rule is made returnable forthwith. Heard finally by
consent of the parties.

The brief facts of the present case are as under :

3. The application of the petitioners, for correction of crop
statement and declaration as owner under the Bombay Tenancy and
Agricultural Lands (Vidarbha Region) Act, 1958 (hereinafter referred to
as “Tenancy Act”), filed before the Tahsildar came to be rejected. Then,
the appeal was carried before the Sub-Divisional Officer who maintained
the same. Further in appeal before the Additional Collector the order of
the Tahsildar was confirmed and lastly before the Divisional

Commissioner the revision was dismissed maintaining the order of Tahsildar. Hence, this petition.

4. Ms Raskar, learned counsel for the petitioners argues that all the revenue record up to 1958 shows that on the tillers' day, the petitioners were in cultivating possession of the lands in question and as such, they have become the owners of the lands in question.

5. She points out that, there are two lands involved in the present proceedings i.e. land Survey No.3-4/1(old Survey No. 27) and 30 (new Survey No.) and the another land Survey No.25(new), 2 (old). It is submitted that so far as the second land is concerned, i.e. Survey No.25, the Maharashtra Revenue Tribunal has already declared that the petitioners have become owners. Whereas, as regards the first land is concerned, because the petitioners were in cultivating possession on the tillers' day, the petitioners became the owners by deeming fiction.

6. It is pointed out that the Tahsildar rejected the application on technical ground i.e. on the ground that, the application was not filed in proper form and was not supported by the verification as required under the Tenancy Act.

7. It is further pointed out that the Sub-Divisional Officer rejected the application on the ground that some proceeding was pending before the High Court. As such, the Sub-Divisional Officer also did not touch the merits of the matter.

8. It is further pointed out that the Additional Collector rejected the application on the ground that, he has no jurisdiction under the provisions of Tenancy Act to consider the correctness and validity of the order of the Sub-Divisional Officer. The said order was maintained in revision by the Additional Divisional Commissioner. She thus, submits that none of the authorities below touched the merits of the matter but the application was rejected on technical ground. Accordingly, she submits that the orders passed by the Tahsildar, Sub-Divisional Officer, Additional Collector and Additional Commissioner, are erroneous and are liable to be quashed and set aside.

9. On the other hand, Shri Bargat learned counsel for the respondent Nos.5 to 20 submits that, it is the duty of the petitioners to submit the necessary evidence pointing out that, on tillers' day, they were in possession to claim that, they have become owners of the lands in question. He submits that no document is filed on record and as such, in absence of any such evidence, the orders passed by the lower authorities, are just and proper and need no interference.

10. Shri Deo, learned counsel for the intervenor submits that, his clients have entered into an agreement to sale of the lands in question with the petitioners and therefore, they have right of audience in the present case. He, accordingly, reiterates the submissions of the learned counsel for the respondents and prays for dismissal of the present writ petition.

11. Shri Dharmadhikari, learned A.G.P. submits that, all the authorities have rightly rejected the application of the petitioners as the application was not filed in a proper format under the provisions of the Tenancy Act, as the petitioners are claiming the ownership under the provisions of the Tenancy Act. He, accordingly, prays for dismissal of the present writ petition.

12. In the light of the rival submissions, I have perused the writ petition, the reply, the documents filed on record and impugned orders.

13. It is a settled law that, rules of procedure are handmaiden of justice, meant to advance not obstruct justice. It should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use. Therefore, a pragmatic, flexible and non-formalist approach must be taken.

14. The Hon'ble Supreme Court of India in the case of *Uday Shankar Triyar ..vs.. Ram Kalewar Prasad Singh and Another*, reported in (2006) 1 SCC 75, has held thus :

“17. Non-compliance with any procedural requirement relating to a pleading, memorandum of appeal or application or petition for relief should not entail automatic dismissal or rejection, unless the relevant statute or rule so mandates. Procedural defects and irregularities which are curable should not be allowed to defeat substantive rights or to cause injustice. Procedure, a hand-maiden to justice, should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use. The well recognized exceptions to this principle are :-

i) where the Statute prescribing the procedure, also prescribes specifically the consequence of non-compliance;

ii) where the procedural defect is not rectified, even after it is pointed out and due opportunity is given for rectifying it;

iii) where the non-compliance or violation is proved to be deliberate or mischievous;

iv) where the rectification of defect would affect the case on merits or will affect the jurisdiction of the court;

v) in case of Memorandum of Appeal, there is complete absence of authority and the appeal is presented without the knowledge, consent and authority of the appellant.”

15. The Hon'ble Supreme Court of India in the case of *Hemareddi ..vs.. Ramchandra Yellappa Sosmani*, reported in (2019) 6 SCC 756, has observed that procedure is the handmaiden of justice, the

technicalities of law should not be allowed to prevail over the demands of justice and obstacles in the path of the Court considering a case on merit should not ordinarily become insuperable. It is further held that, on the other hand, if the so called procedural requirement is drawn from a wholesome principle of substantive law to advance the cause of justice, the same may not be overlooked.

16. In the present matter the original applicant was a poor agriculturist having no knowledge about the jurisdiction of the authorities under different statutes. He approached to the Tahsildar with handwritten application who denied him justice on hyper technical ground and it was concurred by the Sub- Divisional Officer, Additional Collector and Additional Commissioner.

17. In the above referred backdrop, at this juncture, it cannot be lost sight of a fact that the rural India covers 70% of nation's population which mainly resides in villages.

18. The revenue authorities being government functionaries, carry certain public duties towards the people and it ought to be more committed to the marginalized, poor and under privileged people.

19. The rural litigants approach to the Tahsildar, Sub-Divisional Officer, Collector or Divisional Commissioner by way of petition/application or appeal or revision under the statutes namely Maharashtra Land Revenue Code, Bombay Tenancy or Agricultural Lands and Mamlatdars' Courts Act etc., for the enforcement of their legal rights.

20. For instance, the Tahsildar is the authority under the Maharashtra Land Revenue Code, 1966 (for short "MLR Code") for the matters like mutation or for grant of approach way to the field etc. Similarly, under the Tenancy Act, the Tahsildar has power to determine the tenancy. And under the Mamlatdars' Courts Act, the Tahsildar can direct for removal of obstruction in the approach way to the field.

21. The litigant who does not know the difference in jurisdiction of Tahsildar under the different statutes, many times he approaches the Tahsildar by filing a single application but claiming reliefs under more than one statutes.

22. Moreover, most of the times, in such matters the rural litigant approaches to the authority without hiring the services of any legal professional because of his financial condition or for any other

reasons and without knowing the procedural requirements under such statutes.

23. If the lack of such knowledge is made a tool to deny justice to such litigant, it would not only encourage the multiplicity of proceeding but it will cause great hardship to the litigants in terms of money, time and energy. It is also noticed that in such cases normally, the litigation does not end in the first round but it ends after multiple rounds. Since such litigation are against the government, it also increases the burden on the public exchequer. At the same time, it increases burden on judiciary.

24. In the Mamlatdars Courts Act, 1906 (for short “the Act of 1906”) sufficient care has been taken for rectification of procedural defects, under Sections 7 to 12 of the Act of 1906. Despite the same, in many cases under the Act of 1906, it was noticed that the Mamlatdar does not follow the procedure prescribed under the Sections 7 to 12 of the Act of 1906. So far as MLR Code or Tenancy Act is concerned, no provisions like Sections 7 to 12 of the Act of 1906, are provided by the legislation.

25. Therefore, at this juncture, I am of the opinion that, to avoid denial of justice in such matters on the ground of procedural defects, it would be appropriate to issue certain guidelines to be followed by the revenue authorities. These guidelines shall be applicable and to be followed in the proceeding filed under the MLR Code or Tenancy Act etc. So far as Mamlatdars' Courts Act is concerned, except the guidelines Nos.II and VI, other guidelines will be applicable to it. The guidelines are as under :-

- i) If prayers made in the petition/application indicate that proceedings would lie under more than one statute, it shall be pointed out and sufficient opportunity shall be given to rectify the defects by filing separate petitions under the relevant statutes for the respective prayers.
- ii) In case, the petition/application is not in a proper form or does not contain the necessary particulars as required under the statute or not supported by necessary revenue record or documents, the same shall be ascertained from the petitioner/applicant and shall be got it rectified by giving sufficient opportunity.
- iii) Where it is necessary that the petition is to be supported by the affidavit or verification and it is not supported by it, the authority shall

get it rectified by informing the applicant of such requirement and by giving such opportunity.

iv) In case, the documents being public documents available online, the authority can access them, or otherwise call for the record as that will have to be looked into for dealing the application.

v) But, in any case, without giving sufficient opportunity to satisfy the procedural requirement under the statute, the authority shall not deny justice by dismissing the petition on such technical ground.

vi) The fact of grant of such opportunity must be recorded in writing by the authority and it must be reflected from the record and proceeding of such matter.

vii) Dismissal in such cases only be justified on the ground of non removal of the procedural defects, even after due opportunity is given or where the non-compliance or violation is proved to be deliberate or mischievous.

26. In the case at hand, after going through the record, it is evident that the original applicant – Gulab, made two handwritten application on two occasions, to the Tahsildar praying for:

- i) correction of crop statement,
- ii) recording his name as owner of the land, and
- iii) direction to accept the rent.

27. The above referred prayers make it clear that, as far as the first prayer is concerned, it falls within the ambit of provisions of the MLR Code. Whereas, the other two prayers would fall under the provisions of the Tenancy Act, however, the Tahsildar did not ask the original applicant to file two different petitions, one under MLR Code and another under Tenancy Act, for respective prayers.

28. The Tahsildar even did not give opportunity to original applicant to file verification on finding that, the same is required as per the Rules under the Tenancy Act and rejected the application on the said ground.

29. From the prayer No.1, it can be seen that, the applicant had requested for correction of crop statement and while requesting so, he has stated that up to the year of 1985-86 his name was recorded in the revenue record as a tenant. However, after the year 1985-86 the record was manipulated. Thus, he asked for correction of crop record which prayer lies under the provisions of MLR Code.

30. The documents namely revenue entries filed along with the petition *prima facie* show that there are entries in favour of Gulab, as tenant as regards first land i.e. land Survey No. 3-4/1. This record is under the control of the Tahsildar which he could have perused, to examine the correctness of the case of the petitioners.

31. However, the Tahsildar does not say anything about prayer No.1 in his order or why said prayer was not entertained.

32. It is pertinent to note that, it is not the case of the Tahsildar that the procedural defects were not rectified by the applicant, even after it was pointed out and the opportunity was given for rectifying it.

33. It is also not the case of the Tahsildar that it is a case of deliberate non-compliance or violation of a procedural requirement on the part of the original applicant.

34. Thus, I have no hesitation to hold that, in this case the procedural requirement has been made a tool to deny justice or perpetuate injustice and therefore, I am of the opinion that in this matter interference is necessary.

35. In the circumstances, I am of the opinion that the matter needs to be remanded back to the Tahsildar for fresh decision by keeping in view the observations made herein above and after hearing both the parties. Accordingly, I pass the following order :

- i) The writ petition is **partly allowed**.
- ii) The impugned order dated 02.04.2016 passed by Additional Commissioner in Revision No.5/RTS-59/2015-16, order dated 14.12.2015 passed by Additional Collector in Revenue Appeal No.2/RTS-59/2008-09, order dated 13.06.2008 passed by Sub Divisional Officer in Revision Appeal No.4/RTS-59/1997-98 and order dated 17.01.1998 passed by Tahsildar in Revenue Case No.2/RTS-59/1993-94 are hereby quashed and set aside.
- iii) The matter is remanded back to the Tahsildar to decide the same afresh after giving sufficient opportunity to both the parties and after considering the observations made in the order.

Rule is made absolute in above terms. No costs.

The Principal Secretary, State of Maharashtra, Revenue and Forest Department is directed to circulate this judgment to all the Revenue Authorities in the State of Maharashtra like Divisional Commissioners, Collectors, Sub-Divisional Officers and Tahsildars, and submit compliance report within eight weeks.

Office to place this matter after eight weeks for compliance.

(ANIL S. KILOR, J)

C.L.Dhakate